



1015 # 2657082

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

OCT 26 2001

HEAD

Mr. Stephen K. Capps
Corporate Environmental Manager
Frito-Lay, Inc.
7701 Legacy Drive
Plano, Texas 75024

RE: Voluntary Self-Disclosure of EPCRA Violations

Dear Mr. Capps:

After reviewing the information and documents you submitted on behalf of Frito-Lay (Frito-Lay), pursuant to the Environmental Protection Agency's (EPA's) "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations," (Audit Policy), 65 FR 19618 (April 11, 2000), EPA concludes that the following violation occurred:

1. Frito-Lay failed to submit Tier II reports for nitric acid, propane, nitrogen, diesel fuel, and lead usage for 1999 in violation of EPCRA Section 312.

In order to encourage regulated entities to conduct voluntary compliance evaluations and to promptly disclose and correct violations, EPA may, pursuant to the Audit Policy, substantially reduce or even eliminate the gravity component of civil penalties if the conditions specified in the policy are met. Based on a thorough evaluation of the facts surrounding the violations and the measures Frito-Lay has taken to correct the violations and prevent recurrences, EPA has determined that Frito-Lay met the nine conditions specified in the Audit Policy. Enclosed is a Notice of Determination (NOD) regarding the EPCRA matter involving Frito-Lay. EPA will exercise its enforcement discretion and not assess a gravity-based penalty for the violations specified above. EPA will take no further action on the EPCRA violations disclosed by Frito-Lay.

If you have any questions, please call me at 404/562-9537.

Sincerely,

Marcia W. Glenn, Paralegal Specialist
Office of RCRA/Federal Facilities Legal Support

Enclosure

10/5 2657082

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

In the Matter of)

Frito-Lay, Inc.)

Respondent.)

Proceeding under Section 325(c) of the)
Emergency Planning and)
Community Right-To-Know Act (EPCRA))

NOTICE OF DETERMINATION

04-2002-9973

FINAL DETERMINATION

Pursuant to the "Final Policy Statement on Incentives for Self-Policing: Discovery, Disclosure, Correction, and Prevention of Violations" (65 Fed. Reg. 19618, April 11, 2000) ("Self-Disclosure Policy"), the Environmental Protection Agency, Region 4 (EPA) hereby issues this Final Determination on violations disclosed to EPA by Frito-Lay, Inc. (Frito-Lay), at its Louisville, Kentucky facility.

SELF-DISCLOSURE POLICY

EPA issued the Self-Disclosure Policy to encourage regulated entities to conduct voluntary compliance evaluations and to disclose and promptly correct violations. As an incentive for companies to undertake self-policing, self-disclosure, and self-correction of violations, EPA may substantially reduce or eliminate gravity-based civil penalties; however, EPA retains its discretion to recover any economic benefit gained as a result of noncompliance. Where the disclosing party establishes that it satisfies all of the conditions listed below, as set forth in the Self-Disclosure Policy, EPA will not seek gravity-based penalties for violations of federal environmental requirements:

- (1) Discovery of the violation(s) through an environmental audit or compliance management system;
- (2) Voluntary disclosure;
- (3) Prompt disclosure;
- (4) Discovery and disclosure independent of government or third party plaintiff;
- (5) Correction and remediation;
- (6) Prevent recurrence;
- (7) No repeat violations;
- (8) Other violations excluded; and
- (9) Cooperation

FINDINGS OF FACT

In a letter to EPA dated November 6, 2000, Mr. Stephen K. Capps, Corporate Environmental Manager for Frito-Lay, disclosed that Frito-Lay violated Section 312 of EPCRA by failure to submit a Tier II report for nitric acid, propane, nitrogen, diesel fuel, and lead usage for 1999. The violation was discovered at the Louisville, Kentucky facility on October 27, 2000, as a result of a routine auditing activity pursuant to the company's environmental compliance management system. Following the discovery of the violation, Frito-Lay corrected the violation and submitted the corrected Tier II report on November 6, 2000.

FINAL DETERMINATION

Pursuant to the Self-Disclosure Policy, and based on information provided by the facility, EPA makes the following final determination for the disclosure identified above: The facility meets the conditions of the Self-Disclosure Policy for 100% elimination of gravity-based penalties for these violations. EPA will not seek gravity-based penalties for these violations. The facility gained no apparent economic benefit as a result of these violations.

Consistent with the purposes of the Self-Disclosure Policy, EPA expects the facility to institute, on a continuing and company-wide basis, the internal policies and procedures necessary to prevent recurrence of violations of environmental requirements.

10/26/01
Date

June B. Smith, for
Winston A. Smith, Director
Air, Pesticides & Toxics Management Division
Region 4



United States Environmental Protection Agency
Washington, D.C. 20460
Toxic Substances Control Act
NOTICE OF INSPECTION

Form Approved
OMB No. 2070-0007
Approval Expires 10-31-92

The public reporting burden for this collection of information is estimated to average 5 minutes per response. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information to the Chief, Information Policy Branch (PM-223), US Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked ATTENTION: Desk Officer for EPA.

1. Investigation Identification			2. Time	3. Firm Name
Date 11/20/92	Inspector No. KY022	Daily Seq. No. 01	10:05	Frito Lay
4. Inspector Address KY DEPT FOR ENVIRONMENTAL PROTECTION DIVISION OF WASTE MANAGEMENT 14 REILLY ROAD FRANKFORT, KY 40601				5. Firm Address 1600 Collins Ln Louisville KY 40216

REASON FOR INSPECTION

Under the authority of Section 11 of the Toxic Substances Control Act:

- ☒ For the purpose of inspecting (including taking samples, photographs, statements, and other inspection activities) an establishment, facility, or other premises in which chemical substances or mixtures or articles containing same are manufactured, processed or stored, or held before or after their distribution in commerce (including records, files, papers, processes, controls, and facilities) and any conveyance being used to transport chemical substances, mixtures, or articles containing same in connection with their distribution in commerce (including records, files, papers, processes, controls, and facilities) bearing on whether the requirements of the Act applicable to the chemical substances, mixtures, or articles within or associated with such premises or conveyance have been complied with.

☐ In addition, this inspection extends to (Check appropriate blocks):

☐ A. Financial data

☐ D. Personnel data

☐ B. Sales data

☐ E. Research data

☐ C. Pricing data

The nature and extent of inspection of such data specified in A through E above is as follows:

TSCA PCB

Certification I certify that the statements I have made on this form and all attachments thereto are true, accurate, and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law.			
Inspector Signature George H Weems		Recipient Signature Alan Grosheider	
Name GEORGE WEEMS		Name ALAN GROSHEIDER	
Title INSPECTOR	Date Signed 11/20/92	Title ENVIRONMENTAL COORDINATOR	Date Signed 11-20-92

TSCA Section 6(e) PCB Inspection

Frito Lay
1600 Crums Ln.
Louisville, KY 40216
Jefferson County
(502)366-1454

November 20, 1992

SUMMARY

This a neutral scheme TSCA Section 6(e) PCB Inspection. Frito Lay owns approximately 12 (twelve) dry type transformers in the manufacturing facility proper, with an oil filled padmount located outside the main building.

A bank of three large low voltage capacitors are also owned by Frito Lay. Two were visible from ground and marked non PCB on manufacturers label. The third could not be seen on all sides.

PERSONS INTERVIEWED

On November 20, 1992, my credentials were presented to Mr. Richard Cole, Facility Technical Manager and Mr. Alan Grosheider, Environmental Coordinator. Mr. Grosheider signed both the Notice of Inspection and the TSCA Confidentiality Notice. Mr. Cole and Mr. Chambers accompanied me on the inspection, and supplied most of the information found in this report. The remaining information was supplied by a Mr. Phil Schmidt, a Diecks Electric employee, contracted to work on Frito Lay equipment.

HISTORY OF BUSINESS

Frito Lay manufacturing in 1962 and employs approximately 350 people. Frito Lay manufactures potato chips and other snack foods. Electricity is supplied by Louisville Gas and Electric.

TRANSFORMERS

Frito Lay owns only one oil filled padmount. It was installed new in 1986.

Frito Lay also owns 12 (twelve) dry type transformers at several locations which run the machinery in the plant. 5 (five) of the dry type were observed, including a 400 kva General Electric. The s/n to this transformer appeared to be listed as the model number (9123 B 3866). The rest were inaccessible to close inspection.

CAPACITORS

Frito Lay owns one bank of 3 (three) Sprague large low voltage capacitors which was installed in 1986. The two capacitors that were observed were labeled by manufacturer as non PCB.

RECORDS

N/A

MARKING

The large low voltage capacitors that were visible were labeled by the manufacturer as non PCB.

STORAGE

None

SAMPLES TAKEN

N/A

OTHER ELECTRICAL EQUIPMENT

None

LEAKING EQUIPMENT

None observed

George H. Weems, Inspector
Toxics Section

George H. Weems